

Message Text

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ORIGIN IO-14

INFO OCT-01 EUR-12 ISO-00 ACDA-12 NRC-05 OES-07 L-03
SS-15 NSC-05 PA-01 SP-02 H-01 SY-05 INR-07 IOE-00
DOE-12 SOE-01 /103 R

DRAFTED BY ACDA:FHOUCK:IO/SCT:ADJILLSON
APPROVED BY IO/SCT:JPTREVITHICK
OES/NET:JBORIGHT
L/M:JSMITH
NRC:SWILLIAMS (INFO)
DOE:JAMMONS (SUBS)
S/AS:PFARLEY
IO/EX:FJDONNELLY (INFO)
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P 231511Z DEC 77
FM SECSTATE WASHDC
TO AMCONSUL VIENNA PRIORITY

C O N F I D E N T I A L STATE 306092

USIAEA

E.O. 11652: GDS

TAGS: IAEA, PARM, TECH

SUBJECT: FREEDOM OF INFORMATION ACT REQUEST FOR SSIR

REF: (A) STATE 276955; (B) VIENNA 10140; (C) VIENNA 10229

1. THERE ARE DIFFERING ATTITUDES ON THE DESIRABILITY OF
RELEASE OF THE SSIR UNDER THE FOIA REQUESTS WHICH THE
DEPARTMENT HAS RECEIVED, OR OF OTHERWISE MAKING THE SSIR
AVAILABLE TO THE PUBLIC. WE BELIEVE THAT WE HAVE A RESPON-
SIBILITY ALSO TO OBTAIN AND TAKE INTO ACCOUNT THE VIEWS OF
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THE DIRECTOR GENERAL AND OF CERTAIN GOVERNMENTS REPRESENTED
ON THE BOARD OF GOVERNORS ON THIS MATTER.

2. DEPT RECOGNIZES THAT THERE COULD BE A BENEFIT IN MAKING
THE SSIR AVAILABLE TO THE PUBLIC BEARING IN MIND THAT, AS
MISSION NOTED IN REF (C), ONE OF EARLY US MOTIVATIONS FOR
SUPPORTING SSIR WAS TO PROVIDE FURTHER INFORMATION ON THE

EFFECTIVENESS OF AGENCY SAFEGUARDS TO RESPOND TO CONGRESS AND THE PUBLIC. IF THE SSIR WERE TO BE MADE AVAILABLE TO THE PUBLIC, THE PREFERRED PROCEDURE WOULD BE FOR THE BOARD TO AUTHORIZE THE DG TO ISSUE IT AS AN INFCIRC OR TO DIS-TRIBUTE IT AS GENERAL CONFERENCE DOCUMENTS ARE HANDLED. WE ARE, HOWEVER, CONCERNED THAT THE SSIR COULD BE MISUSED TO DISCREDIT IAEA SAFEGUARDS. OF EVEN MORE CONCERN IS THE

LIKELIHOOD THAT KNOWLEDGE THAT FUTURE SSIR'S WERE GOING TO BE RELEASED TO THE PUBLIC WOULD HAVE A MAJOR ADVERSE AFFECT ON THE FORTHCOMINGNESS AND COMPLETENESS OF FUTURE SSIR'S. IF THIS CONSIDERATION PREVAILS, AND IF FUTURE SSIR'S MEET THE RELEVANT STANDARDS UNDER THE IAEA SYSTEM, THEN THEY SHOULD PROBABLY BE LABELED SAFEGUARDS CONFIDENTIAL BY THE IAEA.

3. IN CONSIDERING HOW BEST TO HANDLE THE QUESTION OF RE-LEASE OF THE SSIR IT SHOULD BE BORNE IN MIND THAT OTHER GOV DOCUMENTS INCLUDING THE OFFICIAL RECORDS OF THE BOARD CARRY THE SAME DISTRIBUTION AND CONTROL MARKINGS AS THE SSIR. ACDA HAS ALREADY RECEIVED AN FOIA REQUEST FOR QUOTE ANY COMMENTS OR OTHER EXPRESSIONS OF OPINION ON THE SSIR END QUOTE. THIS REQUEST RAISES THE QUESTION OF RELEASE OF GOV/OR.500, 505 AND 506 AMONG OTHER DOCUMENTS.

4. MISSION REQUESTED TO APPROACH DG OR OTHER APPROPRIATE
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AGENCY OFFICIAL TO DISCUSS THESE MATTERS MAKING THE FOL-
LOWING POINTS:

(A) DEPT AND OTHER USG AGENCIES HAVE RECEIVED FOIA REQUESTS FOR THE SSIR AND FOR RELATED DOCUMENTS WHICH COULD INCLUDE GOV/OR'S. WHILE DEPT HAS TREATED THESE DOCUMENTS ON "OFFICIAL USE ONLY" BASIS (E.G., WE HAVE NOT PUBLISHED OR OTHERWISE VOLUNTEERED RELEASE OR MADE COPIES AVAILABLE TO THE PUBLIC), WHEN SUCH A REQUEST IS MADE, WE MUST COMPLY WITH APPLICABLE PROVISIONS OF LAW.

(B) FREEDOM OF INFORMATION ACT GENERALLY REQUIRES RELEASE OF RECORDS, WITHOUT REGARD TO ORIGIN, IN USG POSSESSION, WITH SEVERAL EXCEPTIONS. CHIEF EXCEPTION IN THIS CONNEC-TION IS FOR "CLASSIFIED" DOCUMENTS, ALTHOUGH OTHER EXCEP-TIONS MAY BE AVAILABLE DEPENDING ON THE CIRCUMSTANCES.

(C) ISSUE IS THUS WHETHER SSIR AND GOV/OR'S ARE "CLASSI-FIED" DOCUMENTS IN SENSE OF US LAW. ONLY BASIS FOR USG CLASSIFICATION IS E.O. 11652, WHICH PERTAINS TO SECURITY CLASSIFICATIONS. THIS E.O. PERMITS USG TO PROTECT INFOR-MATION OR MATERIAL THAT IS CLASSIFIED BY A FOREIGN GOVERN-

MENT OR INTERNATIONAL ORGANIZATION AND PROVIDED TO USG ON THAT BASIS. WE ARE PERMITTED TO "ASSURE A DEGREE OF PROTECTION EQUIVALENT TO THAT REQUIRED BY THE GOVERNMENT OR INTERNATIONAL ORGANIZATION WHICH FURNISHED THE INFORMATION OR MATERIAL."

(D) IT IS NOT CLEAR WHETHER IAEA MARKING AND TREATMENT OF SSIR'S MEAN THAT THEY ARE "CLASSIFIED". IN VIEW OF THE WIDE DISTRIBUTION WHICH THE SSIR RECEIVES (INCLUDING ALL

MEMBER STATES, IAEA LIBRARIES, CERTAIN INTERNATIONAL ORGANIZATIONS AND THE UN LIBRARY) AND THE LACK OF CLEARLY ESTABLISHED RULES GOVERNING HANDLING AND ACCESS TO THE SSIR'S, OUR ABILITY UNDER U.S. LAW TO WITHHOLD THIS DOCUMENT IS CONFIDENTIAL

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WEAK.

(E) FOR THE FUTURE, WE MUST DEVELOP A MECHANISM TO DETERMINE WHICH DOCUMENTS ARE TRULY "CLASSIFIED" BOARD DOCUMENTS--I.E., EFFECTIVELY SAFEGUARDED FROM PUBLIC ACCESS--AND THUS ENTITLED TO SIMILAR USG PROTECTION. USG WILL CONTINUE TO AVOID MAKING AVAILABLE ON ITS OWN INITIATIVE DOCUMENTS WITH CAPTION "RESTRICTED DISTRIBUTION OFFICIAL USE ONLY", BUT THIS MAY NOT IN ITSELF BE LEGALLY SUFFICIENT TO PREVENT PUBLIC ACCESS IN EVENT OF FREEDOM OF INFORMATION ACT REQUESTS. IF, HOWEVER, IT IS DECIDED THAT SUCH DOCUMENTS SHOULD BE HANDLED IN A MORE CONTROLLED MANNER, WE BELIEVE IT WOULD THEN BE APPROPRIATE TO TREAT THEM AS USG CLASSIFIED DOCUMENTS.

(F) USG IS NOT ADVOCATING MORE RESTRICTIVE PRACTICES BY AGENCY REGARDING PUBLIC ACCESS TO AGENCY RECORDS. HOWEVER, IF AGENCY BELIEVES SUCH DISCLOSURE WOULD BE HARMFUL, WE THINK IT IS NECESSARY THAT AGENCY STIPULATIONS AND/OR PROCEDURES BE REVISED AND/OR CLARIFIED TO ENABLE US TO WITHHOLD AGENCY DOCUMENTS TO WHICH SUCH STIPULATIONS AND/OR PROCEDURES APPLY.

(G) ASIDE FROM OUR NEED TO BE ABLE TO RESPOND TO THIS IMMEDIATE FOIA REQUEST, THERE ARE VARIOUS CONSIDERATIONS, AS NOTED IN PARAS 2 AND 3 ABOVE, FAVORING AND OPPOSING THE RELEASE OF THE SSIR IN THE FUTURE AFTER ITS CONSIDERATION BY THE BOARD OF GOVERNORS AND IN THE LIGHT OF ANY REVISIONS THE BOARD MAY REQUEST. WE ARE, THEREFORE, INTERESTED IN THE DG'S REACTION TO THE SUGGESTION OF MAKING THE SSIR AVAILABLE TO THE PUBLIC AND OF PLACING THIS ISSUE ON THE AGENDA FOR THE BOARD OF GOVERNORS SESSION IN FEBRUARY, AS WELL AS TO THE ALTERNATIVE SUGGESTION OF MAKING FUTURE CONFIDENTIAL

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SSIR SAFEGUARDS CONFIDENTIAL.

5. MISSION IS ALSO REQUESTED TO DISCUSS THE MATTER ALONG THE LINES IN PARA 4 WITH SEVERAL MISSIONS, AS MISSION DEEMS APPROPRIATE, IN ORDER TO OBTAIN INDICATIONS OF THE KINDS OF REACTIONS WE MIGHT EXPECT SHOULD THE MATTER COME BEFORE THE BOARD.

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: ARMS CONTROL MEETINGS
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Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
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Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
Film Number: D770479-1118
Format: TEL
From: STATE
Handling Restrictions: n/a
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Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
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Reference: 78 STATE 276955, 78 VIENNA 10140, 78 VIENNA 10229
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Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 29-Nov-2004 12:00:00 am
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Review Exemptions: n/a
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Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 137452
Secure: OPEN
Status: NATIVE
Subject: FREEDOM OF INFORMATION ACT REQUEST FOR SSIR
TAGS: PARM, TECH, IAEA
To: VIENNA USIAEA
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vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/00b8cafd-c188-dd11-92da-001cc4696bcc
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